

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS  
AMENDING PRE-TAX PAYROLL DEDUCTION PLAN  
FOR SERVICE CREDIT PURCHASES UNDER INTERNAL REVENUE CODE  
SECTION (IRC) 414 (h)(2), (CONTRIBUTION CODE 14)**

WHEREAS, the Board of Administration of the California Public Employees' Retirement System (CalPERS) at the April 1996 meeting approved a pre-tax payroll deduction plan for service credit purchases under Internal Revenue Code (IRC) Section 414(h)(2); and

WHEREAS, the City of Milpitas has the authority to implement the provisions of IRC Section 414(h)(2) and has determined that even though implementation is not required by law, the tax benefit offered by this section should be provided to those employees who are members of CalPERS; and

WHEREAS, the City of Milpitas elects to participate in the pre-tax payroll deduction plan for all employees in the following CalPERS coverage group(s):

All Miscellaneous and All Safety Coverage Groups.

NOW, THEREFORE, BE IT RESOLVED by the City of Milpitas:

- I. That the City of Milpitas shall implement the provisions of IRC Section 414(h)(2) by making employee contributions for service credit purchases pursuant to the California State Government Code on behalf of its employees who are members of CalPERS and who have made a binding irrevocable election to participate in the pre-tax payroll deduction plan. "Employee contributions" shall mean those contributions reported to CalPERS which are deducted from the salary of the employees and are credited to individual employee accounts for service credit purchases thereby resulting in tax deferral of employee contributions.
- II. That the contributions made by the City of Milpitas to CalPERS, *although designated as* employee contributions, are being paid by the City of Milpitas in lieu of contributions by the employees who are members of CalPERS.
- III. That the employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the City of Milpitas to CalPERS.
- IV. That the City of Milpitas shall pay to CalPERS the contributions designated as employee contributions from the same source of funds as used in paying salary, thereby resulting in tax deferral of employee contributions.
- V. That the effective date for commencement of the pre-tax payroll deduction plan cannot be any earlier than July 1, 1996, or the date the completed resolution is received and approved in CalPERS, whichever is later.
- VI. That the governing body of the City of Milpitas shall participate in and adhere to requirements and restrictions of the pre-tax payroll deduction plan by reporting pre tax payroll deductions when authorized by CalPERS for those employees of the above stated Coverage Group(s) who have elected to participate in this plan.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
Mary Lavelle, City Clerk

APPROVED:

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven T. Mattas, City Attorney